

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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TONY CACCAVALE, ANTHONY MANGELLI,
DOUGLAS SORBIE, and JAMES BILLUPS,
*individually and on behalf of all others similarly
situated,*

ORDER

Plaintiffs,

CV 20-974 (GRB) (JMW)

- against -

HEWLETT-PACKARD COMPANY *a/k/a* HP INC.,
HEWLETT PACKARD ENTERPRISE COMPANY
and UNISYS CORPORATION,

Defendants.

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WICKS, Magistrate Judge:

Before the Court, on this case reassigned from the Honorable A. Kathleen Tomlinson, are the following discovery motions: DE 86; DE 95; DE 129; DE 130; DE 134; DE 139; DE 140; DE 141; DE 149; DE 150.¹ On November 23, 2021, the Court heard oral arguments on the pending motions and made rulings on the record. This Order memorializes those rulings, the reasoning for which are on the record.

I. MOTION to Compel *Discovery* by Hewlett Packard Enterprise Company, Hewlett-Packard Company [DE 86]

Defendants Hewlett Packard Enterprise Company and Hewlett-Packard Company's motion to compel discovery is hereby GRANTED. Plaintiffs are directed to produce their Attorney Retainer Agreements to the Defendants.

¹ DE 134 was refiled in compliance with Local Rule 37.1 as DE 149, but the substance of these two motions is the same. DE 141 was refiled in compliance with Local Rule 37.1 as DE 150, but the substance of these two motions is the same.

II. MOTION for Extension of Time to Amend Amended Complaint [DE 95]

Plaintiffs' motion is hereby DENIED to the extent that the motion sought to extend the deadline to notify the Court of proposed amendments. The Court has set a deadline of December 31, 2021 for parties to file motions to join new parties or to amend the pleadings.

III. MOTION to Compel *Expedited Deposition of Unisys re: Collective List* [DE 129]

Plaintiffs' motion is hereby DENIED.

IV. MOTION to Compel *Good Faith Meet and Confer between Plaintiffs, HP Defendants, and their ESI Consultants/Technical Employees* [DE 130]

Plaintiffs' motion is hereby DENIED. Defendants Hewlett Packard Enterprise Company and Hewlett-Packard Company are directed to prepare an affidavit detailing why providing weekly time statements to the Plaintiff is not feasible.

V. MOTION to Compel *discovery from HP Defendants and Unisys (reformatted ECF No. 134)* [DE 134; DE 149]

Plaintiffs' motion is GRANTED in part and DENIED in part as follows:

- i. Discovery from HP Defendants Post November 1, 2015 Discovery

GRANTED.

- ii. Verification of Unisys' Interrogatory Responses

GRANTED.

- iii. Discovery Seeking Class Information

GRANTED.

- iv. Workers' Compensation Information

DENIED. HP Defendants and Unisys may provide an affidavit in lieu of deposition.

- v. Interrogatory to Unisys Concerning Good Faith Defense Regarding NYLL § 191(1)(A)

GRANTED.

VI. MOTION to Compel *discovery from HP Defendants and Unisys (reformatted ECF No. 141)* [DE 141; DE 150]

Plaintiffs' motion is hereby DENIED. Defendants are directed to prepare an affidavit concerning payroll, timekeeping, and wages. The parties are further directed to meet and confer on the issue of whether work was performed inside or outside of New York.

VII. MOTION for Protective Order by Unisys [DE 139] AND MOTION for Protective Order by Hewlett Packard Enterprise Company, Hewlett-Packard Company [DE 140]

Defendants' motions for protective order are GRANTED in part and DENIED in part as they relate to the following topics. The Court's Order only applies to discovery that is still outstanding and does not alter any agreements that the parties have already entered to this point.

Topic 1: GRANTED.

Topic 2: GRANTED.

Topic 3: DENIED.

Topic 4: GRANTED. Plaintiffs may serve Defendants with an Interrogatory on this issue.

Topic 5: GRANTED. The parties are directed to meet and confer on this issue.

Topic 6: GRANTED. The Rule 30(b)(6) topic must be limited to the nature of work performed in the relevant positions.

Topic 7: GRANTED.

Topic 8: GRANTED. The Defendants are directed to serve a sworn statement as to the number of employees holding each job title for the relevant period.

Topic 9: DENIED. The topic shall be limited to the search, gathering, and production of documents in this litigation. All subtopics are appropriate to ask of fact witnesses.

Topic 10: GRANTED.

Topic 11 (UNISYS): GRANTED.

Topic 11 (HP) / Topic 12 (UNISYS): GRANTED.

Topic 12 (HP) / Topic 13 (UNISYS): GRANTED.

In addition to the above, the Court issued the following decision as to the six individuals who were inadvertently omitted from the Collective List provided by Unisys. Plaintiffs are directed to send notices to these six individuals. These notices must be returned no later than December 23, 2021 to be included in the Collective Action.

Finally, the Court is cancelling any pre-existing deadlines regarding discovery in this action. The parties are directed to meet and confer and file a joint letter proposing a schedule for the Court's consideration on remaining discovery. The proposed joint discovery schedule shall be filed electronically on ECF no later than December 3, 2021. A status conference will be held before the undersigned on February 15, 2022 at 1 p.m. by video.

SO ORDERED

Dated: Central Islip, New York

November 24, 2021

/s/ *James M. Wicks*

JAMES M. WICKS
United States Magistrate Judge